

**REMARKS**

Prior to entry of the instant amendments, claims 1, 3, 4, 7, 11, 12, 16 and 20 were pending in the application. Claims 1 and 4 have been amended. Claims 7, 11, 12, 16 and 20 have been canceled. Accordingly, upon entry of the amendments presented herein, claims 1, 3 and 4 will remain pending in the application.

Claims 1 and 4 have been amended to remove the 500-4900 mg/m<sup>2</sup> dose range of DMXAA, and to specify, instead, an effective amount (see, *e.g.*, page 2, lines 17-18). As previously amended, claim 1 specifies that DMXAA, or a pharmaceutically acceptable salt thereof, is present with gemcitabine in a ratio in the range of 15:1 to 10:1 (DMXAA: gemcitabine). Support for this amendment can be found throughout the specification as filed. See, *e.g.*, page 4, lines 21-22 (disclosure of ratios) and Example 2 on pages 32-34 (20 mg/kg and 240 mg/kg combination of DMXAA and gemcitabine).

The foregoing claim amendments have been made solely for the purpose of expediting prosecution of the present application and should in no way be construed as acquiescence to any of the Examiner's rejections in this or in any other Office Action issued in the present application. Applicants reserve the right to pursue the subject matter of the present claims prior to being amended herein in this application or in another related application.

In view of the foregoing claim amendments and the arguments set forth below, Applicants respectfully submit that the claims are now in condition for allowance.

***Examiner Interview***

Applicants' representatives appreciate the willingness of Examiners Anderson and Marschel to discuss this application during an in-person interview on September 15, 2010.

***Claim Rejections – 35 USC § 112 – 1<sup>st</sup> Paragraph***

Claims 1, 3, 4, 7, 11, 12, 16 and 20 are rejected under 35 USC § 112, first paragraph, as failing to comply with the written description requirement. *Solely to expedite prosecution*, and as discussed during the interview of September 15, 2010, claims 7, 11, 12, 16 and 20 have been canceled, thereby rendering the rejection moot with respect to these claims.

Applicants respectfully disagree with the 35 USC § 112, first paragraph rejection as applied to claims 1, 3 and 4. However, *solely to expedite prosecution*, and as discussed during

the interview of September 15, 2010, claim 1 has been amended to remove the 500-4900 mg/m<sup>2</sup> dose range of DMXAA.

Accordingly, Applicants request reconsideration and withdrawal of the rejection of the claims under 35 USC § 112, first paragraph.

***Claim Rejections – 35 USC § 112 – 2<sup>nd</sup> Paragraph***

Claims 7, 11, 12, 16 and 20 are rejected under 35 USC § 112, second paragraph, as being indefinite. *Solely to expedite prosecution*, and as discussed during the interview of September 15, 2010, claims 7, 11, 12, 16 and 20 have been canceled.

In view of the foregoing, Applicants request reconsideration and withdrawal of the rejection of the claims under 35 USC § 112, second paragraph.

**CONCLUSION**

In view of the foregoing, entry of the amendments and remarks herein, reconsideration and withdrawal of all rejections, and allowance of the instant application with all pending claims are respectfully solicited. If there are any questions regarding the proposed amendments to the application, we invite the Examiner to call Applicants' representative at the telephone number below.

Applicants believe no fee is due with this Response. However, if a fee is due, please charge our Deposit Account No. 12-0080, under Order No. NVT-084USRCE3, from which the undersigned is authorized to draw.

Dated: September 17, 2010

Respectfully submitted,

Electronic signature: /Brian C. Trinke, Ph.D./  
Brian C. Trinke, Ph.D.  
Registration No. 56,593  
LAHIVE & COCKFIELD, LLP  
One Post Office Square  
Boston, Massachusetts 02109-2127  
(617) 227-7400  
(617) 742-4214 (Fax)  
Attorney/Agent For Applicant